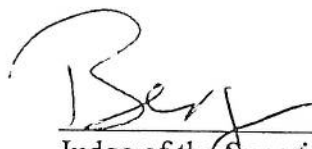


ORDER

The foregoing motion having been duly heard, it is hereby:

GRANTED/DENIED



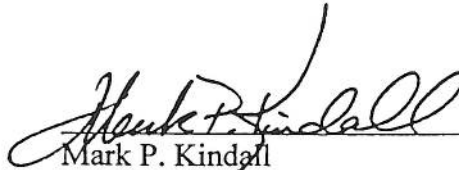
Judge of the Superior Court

5/5/00

CERTIFICATION

I hereby certify that copies of the foregoing motion and of the attached Stipulation for Judgment were sent, this 5th day of May, 2000, by first-class mail, postage pre-paid, to all counsel and/or pro se parties of record, as follows:

Thomas A. Rouse, Esq.
Charles K. Campbell, Esq.
PULLMAN & COMLEY, LLC
850 Main Street
P.O. Box 7006
Bridgeport, CT 06601-7006



Mark P. Kindall
Assistant Attorney General

RETURN DATE: MAY 23, 2000

ARTHUR J. ROCQUE, JR.
COMMISSIONER OF
ENVIRONMENTAL PROTECTION
Plaintiff,

v.

SUPERIOR PLATING CO.
Defendant.

: SUPERIOR COURT
: JUDICIAL DISTRICT OF
: HARTFORD
:
:
:
:
:
:

STIPULATION FOR JUDGMENT

WHEREAS the Plaintiff is the Commissioner of Environmental Protection ("Commissioner"), and, as such, is charged pursuant to Conn. Gen. Stat. § 22a-6 with enforcing statutes and regulations administered by him, including Conn. Gen. Stat. Chapter 446c governing air pollution control; and

WHEREAS the Defendant, Superior Plating Company ("Defendant Superior") is a corporation organized pursuant to the laws of the State of Connecticut, with a business located at 2 Lacey Place, Southport, Connecticut ("the facility"); and

WHEREAS Defendant Superior operates twenty-one (21) hard chromium electroplating tanks ("Affected Equipment") at the facility; and

WHEREAS this Affected Equipment utilizes chromic acid baths to transfer chromium metal to metallic parts by means of an electric current; and

WHEREAS chromic acid and chromates (as Cr) are hazardous air pollutants ("HAPs") listed in Table 29-1 of Regulations of Connecticut State Agencies (R.C.S.A.) Section 22a-174-29; and

WHEREAS chromium emission stack tests were performed at the facility on August 29, 1997; and

WHEREAS Defendant Superior utilized two fiber bed demisters ("FBDs") to control emissions from the Affected Equipment on August 29, 1997; and

WHEREAS the August 29, 1997 tests were performed on two exhaust stacks that served the Affected Equipment and the two FBDs; and

WHEREAS an employee of the Department of Environmental Protection ("Department") was present to witness such tests; and

WHEREAS Defendant Superior submitted to the Department, in writing, the results of the chromium emission stack tests on December 1, 1997; and

WHEREAS the Commissioner has filed a complaint alleging that chromium emissions from the facility exceeded the Maximum Allowable Stack Concentration ("MASC") emission limit for chromic acid and chromates (as Cr); (based on the results of the chromium emission stack tests performed on August 29, 1997, the Actual Stack Concentration (ASC) versus the MASC regulation for FBD#1 and FBD#2 were the following):

<u>Control Device</u>	<u>Actual Stack Concentration (ASC)</u>	<u>MASC</u>
FBD#1	32.48 µg/m ³	2.67 µg/m ³
FBD#2	25.66 µg/m ³	1.76 µg/m ³

WHEREAS Defendant Superior completed installation of three (3) composite mesh pad mist eliminators ("CMPMEs")
by September 30, 1998; and

WHEREAS the Plaintiff does not allege any noncompliance with applicable MASC limits pursuant to R.C.S.A. § 22a-174-29 beyond the period ending September 30, 1998;

NOW THEREFORE, without making any admission of fact or law concerning the substance of the allegations in the complaint, Defendant Superior agrees that judgment may and should enter in accordance with the terms of this stipulation.

A. *Injunctive Relief: An injunction shall issue with the following requirements:*

1. Defendant Superior is prohibited from emitting chromium at a concentration at the discharge point as defined in Section 22a-174-1 of R.C.S.A. in excess of the MASC for chromic acid and chromates (as Cr) in accordance with § 22a-174-29 of R.C.S.A. The MASC of chromic acid and chromates (as Cr) shall be determined using the following equation,

$$\frac{0.885HLV(x + 1.08V^{0.64})^{1.56}}{V}$$

where $HLV = 0.25 \mu/m^3$ for an 8-hour averaging time and $1.25 \mu/m^3$ for a 30-minute averaging time, V is the average actual flow rate (in actual cubic meters per second) from the discharge point, and x is ten (10) meters, or the distance from the discharge point to the closest property line, whichever is greater.

2. Defendant Superior shall perform the following work practice standards on each CMPME, as follows:
 - a. At least once per quarter Defendant shall visually inspect the CMPME to ensure there is proper drainage, no chromic acid buildup on the pads, and no evidence of chemical attack on the structural integrity of the device;

- b. At least once per quarter Defendant Superior shall visually inspect the mesh pad closest to the fan to ensure there is no breakthrough of chromic acid mist;
- c. At least once per quarter Defendant Superior shall visually inspect ductwork from tank to the CMPME to ensure there are no leaks;
- d. Defendant Superior shall perform washdown of the CMPME in accordance with manufacturer's recommendations; and,
- e. If any work practice standard specified in subparagraph 2, (a)-(d) inclusive, of this paragraph indicates that the CMPMEs are malfunctioning and/or are not being operating in accordance with the Operation and Maintenance Manual required pursuant to paragraph 3 of this Stipulation for Judgment, Defendant Superior shall correct such malfunction or operation as specified in said Operation and Maintenance Manual.

3. *Operation and Maintenance Manual.* Within ^{thirty}~~fifteen~~ (30) days after issuance of this Stipulation for Judgment, Defendant Superior shall submit for the Commissioner's review and written approval, an Operation and Maintenance Manual ("Manual") which shall include, but not be limited to, elements specified in 40 CFR § 63.342(f) and Table 1 to 40 CFR § 63.342. Once the Commissioner has issued a written approval for said Manual, Defendant Superior shall immediately implement the operation and maintenance procedures specified in the approved Manual.

4. *Testing.* On or before May 1, 2000 Defendant Superior shall submit to the Commissioner, for his review and written approval, a schedule to stack test the two (2) CMPMEs that have not previously been tested to demonstrate compliance with State emission standards for chromic acid and chromates (as Cr). Such stack

test shall occur no later than August 1, 2000. Such test shall be performed in accordance with EPA Method 306A and the following:

- a. No later than thirty (30) days prior to said test, Defendant Superior shall submit to the Commissioner, for his review and written approval, an Intent-to-Test (ITT) protocol for said testing. The ITT protocol shall include, but not necessarily be limited to, the following:
 - i. A completed Bureau of Air Management Stack Test Form No. 1, Intent to Test;
 - ii. A description of all applicable test methodologies; and,
 - iii. A description of all operational and control equipment parameters which will be measured, monitored and recorded during the test and the time interval during which they will be monitored.
- b. The ITT protocol shall require that the defendant Superior perform said testing while operating all hard chromium electroplating tanks connected to the stack being tested, and that the average of all rectifier amperage readings recorded in all such tanks during the test shall be no greater or less than 10% of the average of all rectifier amperage readings recorded in all such tanks during the witnessed stack test that took place at the facility on October 13 through October 15, 1998. In addition, the ITT protocol shall require that Defendant Superior submit electrical consumption information provided by Respondent's electrical supplier for the time period of said test. Electrical consumption information shall be provided in the form of a weekly detail plot of kilowatts versus dates, a monthly detail plot of kilowatts versus dates, and a daily load plot of kilowatts versus hours.
- c. Defendant Superior shall perform all testing required by paragraph 4 of this Stipulation for Judgment in accordance with the approved ITT protocol.
- d. In conducting, performing and analyzing the results of the testing required by paragraph 4 of this Stipulation for Judgment, Defendant Superior shall adhere to methods approved by EPA and the Commissioner.

- e. Defendant Superior shall schedule any testing so as to allow representatives of the Department to be present during such testing, and shall allow such representatives to conduct procedural and operational audits. The Commissioner may deem a test invalid if no representative of the Commissioner did, in fact, witness the test.
- f. A written test report acceptable to the Commissioner must be submitted to the Department and the Administrator of EPA within thirty (30) days of completing the required emissions test. Defendant Superior shall respond to the Commissioner in writing to any test report deficiency within fifteen (15) days of written notification by the Department.

5. *Monitoring to demonstrate continuous compliance.* Defendant Superior shall conduct the following on the CMPMEs:

- a. During the performance test specified in paragraph 4(b) of this Stipulation for Judgment, Defendant Superior shall determine the outlet chromium concentration using the test methods and procedures in 40 C.F.R. § 63.344(c), and shall establish the pressure drop across the CMPME, which will be used to demonstrate compliance with the applicable federal emission limitation, using the procedures in 40 C.F.R. § 63.344(d)(5).
- b. On and after the stack test required by paragraph 4(a) of this Stipulation for Judgment is performed, Defendant Superior shall monitor and record the pressure drop across the three (3) CMPMEs once per day on each day any of the Affected Equipment is operating. When such pressure drop readings are outside the +/-1 inch water column range established in paragraph 5(a) of this Stipulated Judgment, Defendant Superior shall follow the procedures established in the Operation and Maintenance Manual as approved by the Commissioner. In addition, Defendant Superior shall notify the Commissioner of the exceedance in accordance with the provisions of R.C.S.A. Section 22a-174-7.

6. *Recordkeeping Requirements:*

- a. Defendant Superior shall fulfill all recordkeeping requirements specified in this Stipulation for Judgment and in the General Provisions to 40 C.F.R. part 63.
- b. Beginning upon issuance of this Stipulation for Judgment, and continuing until all actions required by this Stipulation for Judgment have been completed as approved and to the satisfaction of the Commissioner, or

until January 31, 2002, whichever is later, Defendant Superior shall maintain the following records:

- i. Inspection records for the CMPMEs to document that the inspection and maintenance required by the work practice standards of 40 C.F.R. § 63.342(f) and Table 1 of 40 C.F.R. § 63.342 have taken place. The records may take the form of a checklist and should identify the CMPME inspected, the name of the inspector, the date of inspection, a brief description of the working condition of the CMPME during the inspection, and any actions taken to correct such deficiencies.
- ii. Records of all maintenance performed on the Affected Equipment and the CMPMEs;
- iii. Records of the date, duration, and cause (if known) of each malfunction of the CMPMEs;
- iv. Records of actions taken during periods of malfunction when such actions are inconsistent with the operation and maintenance manual;
- v. Other records, which may take the form of checklists, necessary to demonstrate compliance with the provisions of the operation and maintenance manual;
- vi. Test reports documenting the results of all performance tests;
- vii. All measurements necessary to determine the operating conditions during performance tests;
- viii. Records of monitoring data required by 40 C.F.R. § 63.343(c) that are used to demonstrate compliance with the standard including the date and time the data are collected;
- ix. The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions, as indicated by monitoring data, that occurs during malfunction of the CMPME;

- x. The specific identification (i.e., the date and time of commencement and completion) of each period of excess emissions, as indicated by monitoring data, that occurs during periods other than malfunction of the CMPMEs;
- xi. The Monthly Detail Plot, the Weekly Detail Plot, and the Daily Load Plot of kilowatt versus time data provided by Defendant Superior's electrical supplier; and,
- xii. All documentation supporting the notifications and reports required by 40 C.F.R. § 63.9, § 63.10, and § 63.347.

7. *Compliance Status Reports.* On or before the thirtieth day of the first month following the end of each calendar quarter beginning upon issuance of this Stipulation for Judgment, and continuing until all actions required by this Stipulation for Judgment have been completed as approved and to the satisfaction of the Commissioner, or until January 30, 2002, whichever is later, Defendant Superior shall submit a summary report to the Department to document the compliance status of the facility. The report shall contain, but not be limited to, the following information:

- i. The company name and address;
- ii. The beginning and ending dates of the reporting period;
- iii. A summary of pressure drop readings, including the total duration of excess emissions during the reporting period as indicated by those pressure drop readings, the total duration of excess emissions expressed as a percent of the total source operating time during that reporting period, and a breakdown of the total duration of excess emissions during the reporting period into those that are due to process upsets, control equipment malfunctions, other known causes, and unknown causes;
- iv. A certification as specified in paragraph 16 of this Stipulation for Judgment by a responsible company official

that the work practice standards specified in paragraph 2 of this Stipulation for Judgment were followed in accordance with the approved operation and maintenance manual;

- v. If the operation and maintenance manual was not followed, an explanation of the reasons for not following the provisions, an assessment of whether any excess emission and/or parameter monitoring exceedances are believed to have occurred, and a copy of the report(s) required by 40 C.F.R. § 63.342(f)(3)(iv) documenting that the operation and maintenance plan was not followed;
- vi. A description of any changes in monitoring, processes, or controls since the last reporting period;
- vii. The name, title, and signature of the responsible official who is certifying the accuracy of the report; and,
- viii. The date of the report.

B. Civil Penalty Provisions:

1. Defendant Superior shall pay a civil penalty of ninety-eight thousand dollars (\$98,000) in accordance with the following schedule:
 - a. Within ten (10) days of the entry of this Stipulation for Judgment, Defendant shall pay twenty-four thousand five hundred dollars (\$24,500).
 - b. Within one year of the entry of this Stipulation for Judgment, Defendant shall make a second payment twenty-four thousand five hundred dollars (\$24,500).
 - c. Within two years of the entry of this Stipulation for Judgment, Defendant shall make a third payment of twenty-four thousand five hundred dollars (\$24,500).
 - d. Within three years of the entry of this Stipulation for Judgment, Defendant shall make a forth payment of twenty-four thousand five hundred dollars (\$24,500).
2. *Payment of penalties.* All payments shall be made by bank or certified check made payable to "Treasurer, State of Connecticut," and shall be delivered to the

undersigned counsel for the plaintiff at the Office of the Attorney General, 55 Elm Street, P.O. Box 120, Hartford, Connecticut, 06141-0120

3. In the event that any installment as provided in paragraph B(1) above is past due, the entire remaining balance, including the amount that is past due, is due and must be paid in the manner provided for in paragraph B(2) above upon demand by the Commissioner or his legal representatives, together with the statutory interest which accrues on the entire outstanding balance due beginning with the first day any single installment is late, and together with reasonable attorneys fees incurred in association with the demand and collection of said sum.

C. General Provisions

1. *Full compliance.* Defendant Superior shall not be considered in full compliance with this Stipulation for Judgment until all actions required by this Stipulation for Judgment have been completed as approved and to the satisfaction of the Commissioner.
2. *Approvals.* Defendant Superior shall use best efforts to submit to the Commissioner all documents required by this Stipulation for Judgment in a complete and approvable form. If the Commissioner notifies Defendant Superior that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Defendant Superior shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty (30)

days of the Commissioner's notice of deficiencies. In approving any document or other action under this Stipulation for Judgment, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this Stipulation for Judgment. Nothing in this paragraph shall excuse noncompliance or delay.

3. *Definitions.* As used in this Stipulation for Judgment, "Commissioner" means the Commissioner or an agent of the Commissioner.
4. *Dates.* The date of submission to the Commissioner of any document required by this Stipulation for Judgment shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this Stipulation for Judgment, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three (3) days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this Stipulation for Judgment, the word "day" as used in this Stipulation for Judgment means calendar day. Any document or action which is required by this Stipulation for Judgment to be submitted or performed by a date which falls on a Saturday, Sunday or a Connecticut or federal holiday shall be submitted or performed on or before the next day which is not a Saturday, Sunday or Connecticut or federal holiday.

5. *Notification of noncompliance.* In the event that Defendant Superior becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this Stipulation for Judgment or of any document required hereunder, Defendant Superior shall by telephone immediately notify the Bureau of Air Management and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. Defendant Superior shall also notify the Commissioner in writing within ten days of becoming aware of the noncompliance or potential noncompliance stating the date, time, and duration of the noncompliance, the reasons for the noncompliance or delay and all activities which Defendant Superior and its agents, employees and representatives took to avoid or repair the results of the noncompliance and prevent the noncompliance, and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved. Defendant Superior shall comply with any dates which may be approved in writing by the Commissioner. Notification by Defendant Superior shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing. Nothing herein shall negate Defendant Superior's obligation to comply with Section 22a-174-7 of the Regulations. To the extent that the provisions of Section 22a-174-7 are inconsistent with the provisions of this Stipulation for Judgment, the more stringent of the provisions in the Stipulation for Judgment or Section 22a-174-7 shall control.

6. *Certification of documents.* Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this Stipulation for Judgment shall be signed by the chief executive officer of Defendant Superior or a duly authorized representative of such officer, as those terms are defined in Section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall examine and be familiar with the information submitted in the document and all attachments thereto, and shall make inquiry of those individuals responsible for obtaining the information to determine that the information is true, accurate, and complete, and each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6 of the Connecticut General Statutes, under Section 53a-157b of the Connecticut General Statutes, and in accordance with any other applicable statute."

7. *Noncompliance.* Failure to comply with this Stipulation for Judgment may subject Defendant Superior to an injunction and penalties under Chapters 439 and 446c of the Connecticut General Statutes.
8. *False statements.* Any false statement in any information submitted pursuant to this Stipulation for Judgment may be punishable as a criminal offense under

Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157b of the Connecticut General Statutes.

9. *Notice of transfer; liability of Defendant Superior and others.* Until Defendant Superior has fully complied with this Stipulation for Judgment, Defendant Superior shall notify the Commissioner in writing no later than fifteen (15) days after transferring all or any portion of the facility, the operations, the site or the business which are the subject of this Stipulation for Judgment, or obtaining a new mailing or location address. Any license transfer shall be conducted in accordance with Section 22a-6o of the Connecticut General Statutes. Defendant Superior's obligations under this Stipulation for Judgment shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the site may be subject to the issuance of an Order from the Commissioner.
10. *Commissioner's powers.* Nothing in this Stipulation for Judgment shall affect the Commissioner's authority to institute any proceeding or take any other action to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law which are willful or criminally negligent or for which penalties have not been specifically provided in this Stipulation for Judgment, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Defendant Superior pursuant to this Stipulation for Judgment have not fully characterized the extent and degree of

pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Defendant Superior to undertake further investigation or further action to prevent or abate pollution.

11. *Defendant Superior's obligations under law.* Nothing in this Stipulation for Judgment shall relieve Defendant Superior of other obligations under applicable federal, state and local law.
12. *No assurance by Commissioner.* No provision of this Stipulation for Judgment and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Defendant Superior pursuant to this Stipulation for Judgment will result in compliance or prevent or abate pollution.
13. *Access to facility.* Any representative of the Department of Environmental Protection may enter the facility without prior notice for the purposes of monitoring and enforcing the actions required or allowed by this Stipulation for Judgment.
14. *No effect on rights of other persons.* This Stipulation for Judgment shall neither create nor affect any rights of persons who or municipalities which are not parties to this Stipulation for Judgment.
15. *Notice to Commissioner of changes.* Within fifteen (15) days of the date Defendant Superior becomes aware of a change in any information submitted to

the Commissioner under this Stipulation for Judgment, or that any such information was inaccurate or misleading or that any relevant information was omitted, Defendant Superior shall submit the correct or omitted information to the Commissioner.

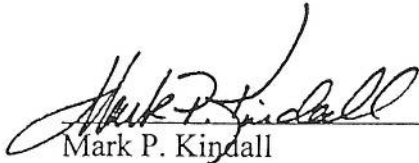
16. *Submission of documents.* Any document required to be submitted to the Commissioner under this Stipulation for Judgment shall, unless otherwise specified in writing by the Commissioner, be directed to:

Mr. Matthew J. Hemming
Department of Environmental Protection
Bureau of Air Management
Compliance and Field Operations Division
79 Elm Street
Hartford, Connecticut 06106-5127

17. The undersigned persons signing on behalf of Defendant Superior certify that they are fully authorized to enter into this Stipulation for Judgment and to legally bind Defendant Superior to the terms and conditions of the Stipulation for Judgment.

PLAINTIFF
ARTHUR J. ROCQUE, JR.
COMMISSIONER OF
ENVIRONMENTAL PROTECTION

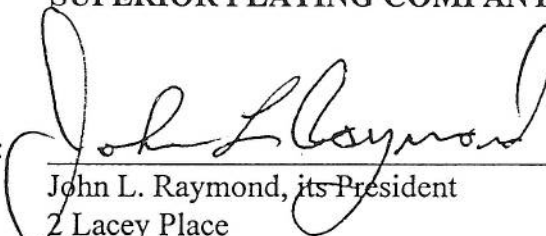
BY: RICHARD BLUMENTHAL
ATTORNEY GENERAL


Mark P. Kindall


Assistant Attorney General
55 Elm Street
P.O. Box 120
Hartford, CT 06141-120
(860) 808-5250

5/2/2000
Date

DEFENDANT
SUPERIOR PLATING COMPANY

BY: 
John L. Raymond, its President
2 Lacey Place
Southport, Connecticut

5/1/00
Date


Thomas Rouse, Esq.
Charles Campbell, Esq.
Attorneys for Defendant Superior Plating Company
PULMAN & CONNOLLY
850 Main Street
Bridgeport, CT 06601-7006
(203) 330-2000

5/1/00
Date